

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

BARNI ABOKAR,

Plaintiff,

v.

JO ANNE B. BARNHART,

Defendant.

Case No.: C 04-2307 PVT

**ORDER RE DEFENDANT'S REQUEST FOR
ENTRY OF FINAL JUDGMENT**

This action was filed on June 14, 2004.¹ On September 26, 2005, this court entered a Stipulation and Order of Remand. On October 2, 2006, Defendant filed a Request for Entry of Final Judgment. Based on the request filed by Defendant and the file herein,

IT IS HEREBY ORDERED that Defendant's request is DENIED without prejudice to either a stipulated request for entry of judgment, or else a noticed motion for summary judgment. Nothing in sentence six of section 205(g) of the Social Security Act expressly authorizes the court to enter judgment upon a party's unilateral request, and the court has found no case interpreting the statute to allow such entry of judgment. *See*, 42 U.S.C. § 405(g). Further, Section 405(g) provides that after remand, in any case in which the Commissioner of Social Security has not made a decision fully

¹ The holding of this court is limited to the facts and the particular circumstances underlying the present motion.

1 favorable to the individual, the Commissioner shall file with the court "a transcript of the additional
2 record and testimony upon which the Commissioner's action in modifying or affirming was based."
3 *Ibid.* Unless the parties file a stipulated request for entry of judgment, Defendant shall comply with
4 that requirement no later than December 22, 2006.

5 IT IS FURTHER ORDERED that, if Defendant can cite case authority to support the
6 proposition that the court has authority to enter judgment based on the unilateral request of a party
7 where the Commissioner has not made a decision fully favorable to the individual, the court will
8 reconsider this order.

9 Dated: 12/4/06

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11 PATRICIA V. TRUMBULL
12 United States Magistrate Judge
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